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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 DIRK VAN VELZEN,

13 Defendant.

No. CR01-315RSL

ORDER DENYING DEFENDANT'S
MOTION FOR CLARIFICATION OF
SENTENCE

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15 **I. INTRODUCTION**

16 This matter comes before the Court on defendant Dirk Van Velzen's "Motion for
17 Clarification of Sentence and Order for Calculation and Award of Good-Time Credits" (Dkt.
18 #24). Defendant asks the Court to issue an order clarifying that, when it stated that his federal
19 sentence was to run concurrently with his state sentences, it intended his federal sentence to
20 begin when he began serving his state sentence, two years before he received his federal
21 conviction. Because defendant's interpretation of the Court's judgment is mistaken, his motion
22 is denied.

23 **II. DISCUSSION**

24 On September 13, 2002, defendant pleaded guilty in federal district court to a firearm
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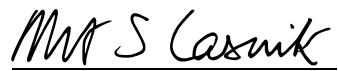
1 charge and was sentenced to 105 months imprisonment. At that time, defendant was serving his
2 state sentence for his earlier California conviction, which he began serving on September 23,
3 1999. Once that sentence expired in November, 2004, he began serving his Washington State
4 sentence. In sentencing defendant, the Court ordered “[t]hat the federal sentence shall run
5 concurrently with the sentence imposed in Santa Barbara California . . . which he is presently
6 serving, and the state sentence to be served in Washington . . . following completion of the
7 California State sentence.” Dkt. #22 at 2 (emphasis in original).

8 In contending that “the Court meant to run the federal sentence from the start of the Santa
9 Barbara County sentence, which started on September 23, 1999,” Dkt. #24 a 2, defendant
10 wrongly conflates the meaning of “concurrently” with “retroactively.” The Court ordered that
11 defendant’s sentence should run “concurrently with” his state sentences; in other words, his
12 federal and state sentences shall run alongside each other instead of consecutively. The Court
13 did not order defendant’s federal sentence to run retroactively so as to give defendant credit for
14 time served on his previous California conviction. A defendant would only receive credit for
15 time served if the previous detention was “a result of the offense for which the sentence was
16 imposed” or “a result of any other charge for which the defendant was arrested *after* the
17 commission of the offense for which the sentence was imposed.” 18 U.S.C. § 3585(b)
18 (emphasis added). Defendant’s California state sentence preceded his federal conviction and
19 was in no way connected to his federal offense. The Court certainly did not intend to include in
20 a federal sentence time served before the defendant was even in federal custody. For the same
21 reason, defendant’s contention that the Court should order the Bureau of Prisons to award him
22 good time credits as of September 23, 1999 fails as well.

23 **III. CONCLUSION**

24 For the foregoing reasons, defendant’s motion for clarification of sentence is DENIED.

1 DATED this 16th day of October, 2008.

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7 Robert S. Lasnik
8 United States District Judge
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